IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 4262 OF 2003

Union of India and ors. ..... Petitioner.

versus

C.M. Amrute & anr. ..... Respondents.

ALONGWITH

WRIT PETITION NO. 4263 OF 2003

Union of India and ors. ..... Petitioners.

versus

S.V. Nair and another .... Respondents.

ALONGWITH

WRIT PETITION NO. 4283 OF 2003

Union of India and ors .... Petitioners.

versus

Abhijit Roy & another .... Respondents.

ALONGWITH

WRIT PETITION NO. 7126 OF 2003

Union of India and others ... Petitioners

versus

A.D. Kambli and another ..... Respondents.

ALONGWITH

WRIT PETITION NO. 7127 OF 2003

Union of India and others ... Petitioners.

veruss

V.S. Mahapadi and another .... Respondents .

ALONGWITH

WRIT PETITION NO 7137 OF 2003

Union of India and ors. ..... Petitioners.

versus

N.M. Mulla and another .... Respondents.

ALONGWITH

WRIT PETITION NO. 7138 OF 2003

Union of India and ors. ..... Petitioners.

versus

B.N. Bhangare and another .... Respondents.

ALONGWITH

WRIT PETITION NO. 7139 OF 2003

Union of India and others .... Petitioners.

versus

S.M. Hiremath & another .... Respondents.

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Shri Sureshkumar with Sri. R.C. Masser for petitioners in all eight petitions.

Shri C.U.Singh with Mrs. Gitanjali Prabhu for respondent no.1 in all eight petitions.

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CORAM ; V.G.PALSHIKAR &
SMT. NISHITA MHATRE, JJ.
DATED; 1ST FEBRUARY 2005.

ORAL JUDGMENT (Per Palshikar, J.);

1. All these petitions challenge the order passed by the Central Administrative Tribunal on 3rd April 2003 allowing the original applications made by the respondent in the present petition before the Tribunal and the original applicants before the Tribunal are

employees of Government of India in the department of Central Excise and at the relevant time were working in the commissionrate of Excise at Pune. Departmental proceedings were started against each of them for misconducts mentioned in the charge sheets duly served and after the charges were held proved, various punishments were awarded. Correctness of those punishments were the subject matter of all the applications before the Tribunal. Since the incident out of which the entire proceedings of each applicant arose were the same and the arguments advanced before the Tribunal were the same, the Tribunal by the order dated 3rd April 2003 proceeded to allow the original applications, observing that the Union of India could not have been penalised any of them as there was no evidence whatever on record to prove any involvement of any of these persons in those misconducts.

2. The Union of India has come up with these writ petitions and since all these petitions arose idential question of law, all the petitions were taken together and by consent of all concerned, they being disposed of by this common order. The punishments which was imposed by the department of Customs after finding that the charges were proved by the Disciplinary Authority which are as under:

3. The Tribunal as we have mentioned above, allowed all the original applications and set aside the punishment imposed to each of them as disclossed by the chart above. The learned counsel for the Union of India relying on several judgment of the Supreme Court of India has contended that the Tribunal as also this Court has no jurisdiction under Article 226 of the Constitution to interfere with the decision taken by the Disciplinary Authority on appreciation of the evidence on record while coming to the conclusion that the delinquentS were guilty of the charges levelled against them.

4. The position of law in this regard is well settled. It is restated in a judgment of the Supreme Court of India reported **in AIR 2000 S.C. page 32** where a Bench of three Honourable Judges of the Supreme Court of India have held that Tribunals or the High Court exercising its jurisdiction under Article 226 of the Constitution cannot reappreciate or revaluate the evidence which form basis of the conclusion rendered by the Disciplinary Authority. The Tribunal as also this Court cannot reappreciate the evidence or reconsider the adequacy or reliability of that evidence in a proceeding where the order of punishment is imposed.

The discretion of the Disciplinary Authority cannot be interfered with solely because the evidence as accepted by the Disciplinary Authority was either inadequacy or unreliable. In effect the dicta of the Supreme Court over all these years is that the Appellate Tribunals or Revisional Tribunals or independent Tribunals and the High Court under Article 226 of the Constitution should not interfere with the order directing penalty except where there is disproportionate award of punishment and there cannot be any interference where from some evidence which is accepted by the Disciplinary Authority and punishment is meted out.

5. The contention of the learned counsel for the Union of India in all these petitions is that, present is the case where there was evidence, which appreciated by the Disciplinary Authority and it is therefore a case of adequacy or reliability of that evidence which could not have been judged or gone into by the Central Administrative Tribunal as a sequel, also by this Court. As we have already noted above that this proposition of law cannot be disputed. However, present is the case where there is total absence of evidence and therefore the order passed on no evidence is liable to be interfered with by the Tribunal execising original jurisdiction under section 19 of the

Administrative Tribunals Act of 1985. These are obviously because where there is total lack of evidence and therefore the interference by the Tribunal is liable to be affirmed as justifiable. It will be seen that heavy reliance was placed on Exh.S2 by the Enquiring Authority or the Disciplinary Authority. The Tribunal has found as a fact that this Exh.S2 was not among the documents seized vide panchanama dated 7-1-91 and therefore no reliance can be placed on these documents Exh.S2. It is observed by the Tribunal that the panchanama dated 7-1-91 and 8-1-91 is not on record of the proceedings at all. There is therefore no proof that Exh.S2 was seized as addressed by the departmental authority. After recording all these discripencies and lack of evidence in para 23 the Tribunal has held as under:

> *" In our considered view, there was no evidence to link the applicants with the charges framed against them, leave aside sufficiency of evidence." The aforesaid judgment of the Hon'ble Supreme Court is applicable to this case. This apart, there were glaring procedural irregularities like non-examination of witnesses and charged officers."*

6. In our opinion therefore, it is obviously a case of total lack of evidence on the basis of which conclusion of guilt is reached by the disciplinary authority. In our opinion, there is no foundation of evidence at all in the present case and consequently the edifice of conviction built thereon must colapse. In the result therefore the petitions fail and are dismissed.

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